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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,709	09/17/2003	Juliana O'Niell	A35997 - 074915.0101	4384

7590

07/27/2004

Michael R. Friscia  
Wolff & Samson PC  
One Boland Drive  
West Orange,, NJ 07052

EXAMINER
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NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/664,709

**Applicant(s)**

O'NIELL, JULIANA

**Examiner**

Son T. Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/10/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5887436 (herein 436) in view of US 5551371 (herein 371).

For claims 1 & 9, 436 discloses a shelter for a pet comprising: an enclosure 10 sized for a pet, said enclosure including an interior space having at least one wall 21,22,25 separating said interior space from exterior space and at least one opening (where door 30 covers) for ingress and egress to said interior space; a thermoelectric cooler 40 (see also col. 3, lines 50-58) mounted in said at least one wall 25. However, 436 is silent about a first grill spaced from said wall having said cooler and separating said cooler from said interior space; and a second grill spaced from said wall having said cooler and separating said cooler from exterior space.

371 teaches a pet enclosure 10 having a first grill 134 spaced from said wall 14 having said cooler 148,152,146 and separating said cooler from said interior space; and a second grill 144 spaced from said wall having said cooler and separating said cooler from exterior space. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ first and second grills as taught by 371 in

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the enclosure of 436 in order to protect the cooler/fan/equipment and the animal contained therein from harm.

For claims 2 & 10, 436 as modified by 371 (emphasis on 436) further discloses wherein said enclosure includes thermal insulation 80 separating said interior space from exterior space.

For claims 3 & 4, in addition to the above, 371 further teaches wherein said opening is closed by a flexible closure 72, wherein said flexible closure comprises strips of plastic material attached above said opening and extending by gravity to close said opening (see col. 2, line 55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a flexible closure as taught by 371 in the enclosure of 436 as modified by 371 in order to allow the animal to enter and exit on its own.

For claim 5, 436 as modified by 371 (emphasis on 436) further discloses wherein said wall having said cooler comprises a vertical side wall 48.

For claim 6, 436 as modified by 371 (emphasis on 436) further discloses wherein said wall having said cooler comprises a top wall 53,55a.

For claims 7,13 & 18, 436 as modified by 371 (emphasis on 436) further discloses wherein said cooler includes first heat convector fins 43 arranged on a side thereof facing said interior space and a first fan 42 for providing flow of air over said first heat convector fins. In addition, the combination of 436 as modified by 371 (emphasis on 371) teaches wherein said first grill is spaced from said first fan (see fig. 7 of 371).

For claims 8, 14 & 19, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ various type of cooler, one which includes second heat convector fins arranged on a side thereof facing said exterior space and a second fan for providing flow of air over said second heat convector fins, and wherein said second grill is spaced from said second fan, in the shelter of 436 as modified by 371, since cooler of different types are known and to select which one to use would be up to one's choice to do so for his/her best intended use base on factors such as cost, availability, weight, etc.

For claim 11, 436 as modified by 371 (emphasis on 436) further discloses the cooler is mounted to a vertical side wall 48 of the enclosure.

For claim 12, 436 as modified by 371 (emphasis on 436) further discloses wherein the cooler is mounted to a top wall 25 of the enclosure.

For claims 15 & 20, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a thermostat control for the operation of the cooler of 436 as modified by 371 for such device is notoriously well known in thermoelectric cooler for temperature adjustment.

For claims 16 & 20, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a control knob to control the thermostat in the enclosure of 436 as modified by 371 for such device is notoriously well known in thermoelectric cooler to allow one to manually adjust the thermostat to a desire temperature.


For claim 17, in addition to the above comments, 436 as modified by 371 (emphasis on 436) further discloses an extension 45,48 mounted on the enclosure.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.

  
Son T. Nguyen  
Primary Examiner, GAU 3643  
July 22, 2004